

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #6	CCRB Case #: 201707661	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/10/2017 4:00 PM	Location of Incident: In front of 870 Rosedale Avenue; Inside the PSA 8 stationhouse	Precinct: 43	18 Mo. SOL 3/10/2019	EO SOL 3/10/2019	
Date/Time CV Reported Mon, 09/18/2017 12:17 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/18/2017 12:17 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Heinz	09897	953959	PSA 8
2. POM Jimmie Moore	25780	925771	PSA 8

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Ford	04746	934874	PSA 8
2. POM Andrew Fernandez	12344	941741	043 PCT
3. POM Edwin Nieves	21117	946059	043 PCT
4. POM Jimmy Bonilla	08383	951552	043 PCT
5. POM Ralph Gurr	02042	944625	043 PCT
6. SGT Wilbert Rodriguez	04389	919641	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Heinz	Abuse: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Jimmie Moore	Abuse: In front of 870 Rosedale Avenue in the Bronx, Police Officer Jimmie Moore stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Michael Heinz	Abuse: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz interfered with § 87(2)(b)'s use of a recording device.	
D.POM Michael Heinz	Abuse: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz damaged § 87(2)(b)'s property.	
E.POM Michael Heinz	Force: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz used physical force against § 87(2)(b).	
F.POM Jimmie Moore	Abuse: In front of 870 Rosedale Avenue in the Bronx, Police Officer Jimmie Moore searched the vehicle in which § 87(2)(b) was an occupant.	
G.POM Michael Heinz	Abuse: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz seized § 87(2)(b)'s cell phone.	

Officer(s)	Allegation	Investigator Recommendation
H.POM Michael Heinz	Force: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz used physical force against § 87(2)(b)	
I.POM Michael Heinz	Abuse: Inside of the PSA 8 stationhouse, Police Officer Michael Heinz strip-searched § 87(2)(b)	

Case Summary

On September 18, 2017, § 87(2)(b) filed the following complaint with the CCRB. On September 10, 2017, at approximately 4:00 p.m., § 87(2)(b) was driving when he was pulled over in front of 870 Rosedale Avenue in the Bronx by PO Michael Heinz and PO Jimmie Moore of PSA 8 (**Allegations A and B: Abuse of Authority** – § 87(2)(g) § 87(2)(b) took out his cell phone to record and PO Heinz allegedly took the phone from § 87(2)(b) and threw it on the ground (**Allegations C: and D: Abuse of Authority** – § 87(2)(g) PO Heinz allegedly slapped § 87(2)(b) in the face (**Allegation E: Force** – § 87(2)(g) § 87(2)(b) was removed from the vehicle and handcuffed. PO Moore allegedly searched § 87(2)(b)'s vehicle (**Allegation F: Abuse of Authority** – § 87(2)(g) § 87(2)(b) was a bystander to the incident. PO Heinz allegedly took § 87(2)(b)'s cell phone from him (**Allegation G: Abuse of Authority** – § 87(2)(g) § 87(2)(b) was arrested and allegedly pushed against § 87(2)(b)'s vehicle (**Allegation H: Force** – § 87(2)(g) § 87(2)(b) was allegedly strip searched at the PSA 8 stationhouse by PO Heinz (**Allegation I: Abuse of Authority** – § 87(2)(g) § 87(2)(b)).

There was body worn camera video footage recorded by officers who arrived to the scene as backup. These officers arrived after the alleged misconduct took place and none of the allegations are shown in the video.

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: In front of 870 Rosedale Avenue in the Bronx, Police Officer Jimmie Moore stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) was driving his father-in-law's vehicle, a white GMC Yukon SUV. He was coming from a gas station driving home. § 87(2)(b)'s license was valid and he did not admit to knowingly commit any traffic infractions while driving when PO Heinz and PO Moore pulled him over (**Board Review 1**).

PO Heinz stated (**Board Review 2**) that he and PO Moore were driving when they observed § 87(2)(b) driving in the opposite direction. As they passed each other, § 87(2)(b) opened the car door while the car was in motion, leaned out of the car and yelled, "Suck my dick." PO Heinz has met § 87(2)(b) repeatedly through patrolling the neighborhood and has been involved in incidents in which § 87(2)(b) his family or his friends were arrested. PO Heinz saw that § 87(2)(b) was not wearing his seatbelt and leaning out of the car while driving constituted reckless driving. PO Moore also stated (**Board Review 3**) that § 87(2)(b) was driving recklessly by leaning out of the car and was not wearing a seatbelt. PO Moore also knew § 87(2)(b) through numerous police interactions and he was briefed on the fact that § 87(2)(b) was known to have a suspended driver's license. PO Heinz did not mention knowing that § 87(2)(b)'s license was suspended and stated that he only discovered this after pulling § 87(2)(b) over.

§ 87(2)(b) was charged with § 87(2)(b) § 87(2)(b). In the OLBS arrest report, PO Heinz stated that he

wrist to prevent § 87(2)(b) from using whatever he had in his hand to attack him. § 87(2)(b) dropped the object in his hand which turned out to be his cell phone. The cell phone landed on the driver's seat of the car. PO Moore and PO Heinz both denied that the phone was thrown onto the ground or into the street. PO Heinz denied that he damaged § 87(2)(b)'s phone.



2018-05-29_20-40-17.mp4

PO Heinz and PO Moore were not equipped with body worn cameras. PO Andrew Fernandez, PO Edwin Nieves, PO Jimmy Bonilla and PO Ralph Gurr arrived on the scene after § 87(2)(b) had been placed under arrest and were equipped body worn cameras. The video footage from their cameras did not show this portion of the incident. In the video obtained from PO Nieves's body worn camera, § 87(2)(b) did repeatedly yell that his phone had been broken, but no phone was visible. None of the body worn camera videos showed a cell phone.

PO Heinz prepared a lengthy and detailed memo book entry consistent with his CCRB narrative in which he described how he caused § 87(2)(b) to drop his cell phone onto the driver's seat. § 87(2)(b)'s cell phone was not mentioned in any other arrest related paperwork, and a request for property vouchers related to § 87(2)(b)'s arrest did not yield any property voucher for a cell phone. As such, the condition of § 87(2)(b)'s cell phone remains unknown.

§ 87(2)(g)
[REDACTED]

Allegation (E) Force: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz used physical force against § 87(2)(b)

Immediately after PO Heinz allegedly threw the cell phone on the ground, PO Heinz then allegedly slapped § 87(2)(b) in the face, pulled him out of the car and handcuffed him (**Board Review 1**).

§ 87(2)(b) requested medical treatment and was transported to § 87(2)(b). § 87(2)(b) was treated at § 87(2)(b), with the initial complaint of facial pain secondary to assault. § 87(2)(b) stated that he was punched in the face earlier that day but denied jaw pain, eye pain, blurry vision, abrasions and lacerations. He stated he did not want to be evaluated for the pain to his face. The medical records listed face pain and wrist pain as his chief complaints (**Privileged Documents**).

PO Heinz denied slapping § 87(2)(b) in the face (**Board Review 2**). After grabbing § 87(2)(b) by the wrist, PO Heinz grabbed § 87(2)(b)'s other wrist and handcuffed § 87(2)(b) while standing next to the open driver's door. PO Moore confirmed PO Heinz's account (**Board Review 3**) and did not see PO Heinz slap or strike § 87(2)(b).

PO Heinz filled out a TRI report in which he indicated that the only force he used against § 87(2)(b) were "compliance holds" in order to "overcome resistance or aggression." He noted that § 87(2)(b) sustained no injuries, but medical treatment was offered and § 87(2)(b) accepted.



2018-05-29_20-40-17.mp4

Body worn camera footage was recorded by officers who arrived as backup. It showed § 87(2)(b) already in handcuffs standing next to his vehicle with PO Heinz. There were no visible marks on § 87(2)(b)'s face in the body worn camera video footage. § 87(2)(b) complained of his cell phone being broken, but did not say anything about being slapped or struck.

§ 87(2)(g)

Allegation (F) Abuse of Authority: In front of 870 Rosedale Avenue in the Bronx, Police Officer Jimmie Moore searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that after he was handcuffed, PO Moore entered his car and lifted up the floor mat of the front passenger seat. PO Moore also turned off the ignition to § 87(2)(b)'s car and removed the keys. PO Moore did not search anywhere else inside the car (**Board Review 1**).

PO Moore and PO Heinz both stated (**Board Review 2 and 3**) that § 87(2)(b)'s car was driven by a police officer back to the PSA 8 stationhouse after § 87(2)(b)'s arrest. However, they both denied that any police officer entered § 87(2)(b)'s vehicle to search it at the time § 87(2)(b) alleged.

The alleged search of the car by PO Moore allegedly occurred prior to the arrival of officers with body worn cameras. In the body worn camera footage, no search of § 87(2)(b)'s vehicle is seen. A request for any property vouchers related to § 87(2)(b)'s arrest did not yield any property vouchers for his car, nor any other documentation of a car search.

§ 87(2)(g)

Allegation (G) Abuse of Authority: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz seized § 87(2)(b)'s cell phone.

Allegation (H) Force: In front of 870 Rosedale Avenue in the Bronx, Police Officer Michael Heinz used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he was placed in handcuffs, a crowd of approximately 10 to 20 people gathered around him. One of them was § 87(2)(b) whom § 87(2)(b) has known all of his life. § 87(2)(b) was holding a cell phone. § 87(2)(b) alleged that PO Heinz told § 87(2)(b) once to “step back” before grabbing § 87(2)(b)'s cell phone out of his hand. PO Heinz then allegedly grabbed § 87(2)(b) and threw him against the driver's side door of § 87(2)(b)'s vehicle. § 87(2)(b) did not claim to have seen any injuries on § 87(2)(b).

§ 87(2)(b) could not provide any contact information for § 87(2)(b). Through searches of Complaint Tracking System, Whitepages, NYC Department of Corrections, Clear, Lexis Nexis, FamilytreeNow.com, Department of Homeless Services and the arrest databases, three potential mailing addresses and three phone numbers for § 87(2)(b) were yielded. Between November 3, 2017 and December 5, 2017, exhaustive contact attempts to these addresses and phone numbers were made. Contact was established with a purported relative of § 87(2)(b) – § 87(2)(b) who refused to confirm her relationship with § 87(2)(b) but stated she would pass along a message. However, she asked not to be contacted again by the CCRB. Despite these contact attempts, no contact from § 87(2)(b) was forthcoming. The officers who were equipped with body worn cameras arrived as backup and showed § 87(2)(b) already in handcuffs upon their arrival. The videos did not show any force used against § 87(2)(b) or injuries, § 87(2)(g).

Allegation (I) Abuse of Authority: Inside of the PSA 8 stationhouse, Police Officer Michael Heinz strip-searched § 87(2)(b)

§ 87(2)(b) alleged that when he was brought to the PSA 8 stationhouse, PO Heinz immediately brought § 87(2)(b) into a bathroom. PO Heinz first frisked § 87(2)(b)'s clothing and then instructed him to remove all of his clothing. § 87(2)(b) did so and handed his clothing to PO Heinz. PO Heinz then told § 87(2)(b) to squat down and cough, which he did. § 87(2)(b) denied that PO Heinz placed his hands on him while he was naked. § 87(2)(b) was told to put his clothes back on and taken to a holding cell (**Board Review 1**).

PO Heinz denied that he ever took § 87(2)(b) into a bathroom and denied that he ordered § 87(2)(b) to remove his clothing. PO Heinz stated that he did not suspect § 87(2)(b) of concealing any contraband or evidence and there was no reason to strip-search § 87(2)(b). PO Moore escorted § 87(2)(b) to the PSA 8 stationhouse with PO Heinz, but PO Heinz conducted the paperwork and processing of § 87(2)(b)'s arrest. PO Moore did not see PO Heinz take § 87(2)(b) to a bathroom and stated that to his knowledge § 87(2)(b) was not strip-searched. Sgt. Wilbert Rodriguez (**Board**

Review 9) was PO Heinz's supervisor and stated he arrived at the scene of § 87(2)(b)'s arrest after § 87(2)(b) had already been placed inside the police vehicle just prior to § 87(2)(b) being driven back to the PSA 8 stationhouse. Sgt. Rodriguez denied that he authorized a strip search of § 87(2)(b) and to his knowledge § 87(2)(b) was not strip-searched. There was no notation in the command log or any other paperwork indicating § 87(2)(b) had been strip-searched.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- PO Heinz has had eight other CCRB complaints involving 24 allegations made against him in his five-year tenure at the NYPD. § 87(2)(g) [REDACTED]. He has only had one allegation substantiated.
 - In CCRB case number 201709949, an allegation of physical force was substantiated and charges were recommended. The outcome of that case is pending.
 - PO Moore has had nine other CCRB complaints involving 24 allegations made against him in his 18-year tenure at the NYPD. § 87(2)(g) [REDACTED]. He has only had one allegation substantiated.
 - In CCRB case number 201602039, allegations of discourteous language and use of pepper spray were substantiated. The board recommended Command Discipline A. The NYPD imposed Command Discipline B.
 - In CCRB case number 201407548, an allegation that PO Moore interfered with the use of a recording device was substantiated. The board recommended formalized training and the NYPD imposed formalized training.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming psychological and physical trauma, illegal search, and false imprisonment and seeking an unspecified amount as redress (**Board Review 5**). A 50H hearing has not taken place.

§ 87(2)(b), § 87(2)(c) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 10

Investigator: _____ Inv. Simon Wang 06/21/18
Signature Print Title & Name Date

Squad Leader: _____ IM Diana Townsend _____
Signature Print Title & Name Date

Reviewer: _____ _____ _____
Signature Print Title & Name Date